

Section 636

SEC. 636. SPECIAL COMPENSATION FOR CERTAIN COMBAT-RELATED DISABLED UNIFORMED SERVICES RETIREES.

(a) AUTHORITY -

(1) Chapter 71 of title 10, United States Code, is amended by inserting after section 1413 the following **new** section:

Sec. 1413a. Special compensation for certain combat-related disabled uniformed services retirees

'(a) AUTHORITY -

The Secretary concerned shall pay to each eligible combat-related disabled uniformed services retiree who elects benefits under this section a monthly amount for the combat-related disability of the retiree determined under subsection (b).

'(b) AMOUNT -

'(1) DETERMINATION OF MONTHLY AMOUNT -

Subject to paragraphs (2) and (3), the monthly amount to be paid an eligible combat-related disabled uniformed services retiree for a combat-related disability under subsection (a) is the monthly amount of compensation to which the retiree would be entitled solely for the combat-related disability consistent with chapter 11 of title 38.

'(2) MAXIMUM AMOUNT - The amount paid to an eligible combat-related disabled uniformed services retiree for any month under paragraph (1) may not exceed the amount of the reduction in retired pay that is applicable to the retiree for that month under sections 5304 and 5305 of title 38.

'(3) SPECIAL RULES FOR CHAPTER 61

DISABILITY RETIREES - In the case of an eligible combat-related disabled uniformed services retiree who is retired under chapter 61 of this title, the amount of the payment under paragraph (1) for any month shall be reduced by the amount (if any) by which the amount of the member's retired pay under chapter 61 of this title exceeds the amount of retired pay to which the member would have been entitled under any other provision of law based upon the member's service in the uniformed services if the member had not been retired under chapter 61 of this title.

'(c) ELIGIBLE RETIREES -

For purposes of this section, an eligible combat-related disabled uniformed services retiree referred to in subsection

(a) is a member of the uniformed services entitled to retired pay who --

'(1) has completed at least 20 years of service in the uniformed services that are creditable for purposes of computing the amount of retired pay to which the member is entitled; and

'(2) has a qualifying combat-related disability.

'(d) PROCEDURES -

The Secretary of Defense shall prescribe procedures and criteria under which a disabled uniformed services retiree may apply to the Secretary of a military department to be considered to be an eligible combat-related disabled uniformed services retiree. Such procedures shall apply uniformly throughout the Department of Defense.

'(e) QUALIFYING COMBAT-RELATED DISABILITY -

In this section, the term 'qualifying combat-related disability' means either of the following:

(1) A disability that --

'(A) is attributable to an injury for which the member was awarded the Purple Heart; and

'(B) is rated as not less than 10 percent disabling --

'(i) by the Secretary concerned, as of the date on which the member is retired from the uniformed services, under criteria prescribed by the Secretary of Defense; or

'(ii) by the Secretary of Veterans Affairs.

'(2) A service-connected disability that --

'(A) was incurred (as determined under criteria prescribed by the Secretary of Defense) --

'(i) as a direct result of armed conflict;

'(ii) while engaged in hazardous service;

'(iii) in the performance of duty under conditions simulating war; or

'(iv) through an instrumentality of war; and

'(B) is rated as not less than 60 percent disabling --

'(i) by the Secretary concerned, as of the date on which the member is retired from the uniformed services, under criteria prescribed by the Secretary of Defense; or

'(ii) by the Secretary of Veterans Affairs.

'(f) CONSTRUCTION WITH SPECIAL COMPENSATION FOR SEVERELY DISABLED UNIFORMED SERVICES RETIREES -

'(1) **SINGLE SOURCE OF COMPENSATION** - An individual who is paid special compensation under this section may not receive special compensation under section

1413 of this title.

'(2) **ELECTION OF SOURCE** - An individual who is eligible for special compensation under this section and special compensation under section 1413 of this title shall elect which special compensation to receive.

'(3) **REGULATIONS** - The Secretary of Defense shall prescribe in regulations the manner and form of an election under this subsection.

'(g) STATUS OF PAYMENTS -

Payments under this section are not retired pay.

'(h) SOURCE OF PAYMENTS -

Payments under this section for any fiscal year shall be paid out of funds appropriated for pay and allowances payable by the Secretary concerned for that fiscal year.

'(i) OTHER DEFINITIONS -

In this section:

'(1) The term 'service-connected' has the meaning given such term in section 101 of title 38.

'(2) The term 'retired pay' includes retainer pay, emergency officers' retirement pay, and naval pension.'

(2) Section 1413a of title 10, United States Code, as added by paragraph (1), shall take effect not later than 180 days after the date of the enactment of this Act.

(3) The table of sections at the beginning of chapter 71 of such title is amended by inserting after the item relating to section 1413 the following new item:

1413a. Special compensation for certain combat-related disabled uniformed services retirees.'

(b) SPECIAL COMPENSATION FOR CERTAIN SEVERELY DISABLED UNIFORMED SERVICES RETIREES - Section 1413 of title 10, United States Code, is amended --

(1) by redesignating subsections (e), (f) and (g) as subsections (f), (g), and (h), respectively; and

(2) by inserting after subsection (d) the following new subsection (e):

(e) CONSTRUCTION WITH SPECIAL COMPENSATION FOR COMBAT-DISABLED UNIFORMED SERVICES RETIREES -

(1) An individual who is paid special compensation under this section may not receive special compensation under section 1413a of this title.

(2) An individual who is eligible for special compensation under this section and special compensation under section 1413a of this title shall elect which special compensation to receive.

(3) The Secretary of Defense shall prescribe in regulations the manner and form of an election under this subsection.'.